IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.255 OF 2007

IN

WRIT PETITION NO.4459 OF 1994

Shri Bhaskar Daulat Bhamare ..... Appellant.

V/s

Nashik District Maratha
Vidya Prasarak Samaj. ..... Respondent.

Mr. Uday Warunjikar for the appellant.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.

DATE : 19th November, 2007.

P.C.:

1. The appellant was in service of the respondent as a lecturer in Junior College during academic session 1987-88. His services were transferred as a lecturer in Senior College. His services in Senior College were terminated but that did not bring an end to his services as a lecturer in Junior College. Termination of his services as a lecturer in Senior

College was to take effect from 20th April 1988. The order to that effect was issued on 15th March, 1988. The appellant, admittedly, during this period from 15th March, 1988 to 20th April, 1988 did not challenge the order in any Court or Tribunal. On the contrary, he complied with that order and joined his services as a lecturer in Junior College. In 1992, he filed an appeal. There was delay in filing the appeal. That delay was condoned and the appeal was heard on merit. The College Tribunal held that the termination of services of the appellant as a lecturer in Senior College was improper and, therefore, made consequential order. Against that order, Writ Petition was filed before the learned Single Judge of this Court. The learned Single Judge, amongst other things, has held that the conduct of the appellant of joining the duty as a lecturer in Junior College without challenging the order amounts to waiver and, therefore, validity of the order terminating his services as a lecturer in Senior College could not have been examined by the College Tribunal. In our opinion, the finding is perfectly legal. The learned Single Judge has protected the interest of the appellant by directing that the period during which he was working in Senior

College should not be treated as break in service and he should be deemed to be in continuous service as a lecturer in Junior College. In our opinion, the learned Single Judge has done substantial justice between parties. The impugned order, therefore, does not call for any interference.

2. Appeal is dismissed. Since the appeal is disposed of, Civil Application No.66 of 2007 does not survive and the same is also disposed of.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)